

Appl. No. 10/765,959  
In re BAXTER  
Reply to Office Action of Apr. 20, 2005

### **REMARKS/ARGUMENTS**

The Examiner is thanked for the Official Action dated April 20, 2005. This amendment and request for reconsideration is intended to be fully responsive thereto.

The drawings were objected to because of their informal nature. Replacement sheets of the formal drawings have been submitted to overcome this objection.

Moreover, in Fig. 1, previously omitted reference numerals 14' and 15' marking a wall of the differential housing portion 14 and a wall of the neck portion 15 of the axle housing 12, respectively, have been added. In Fig. 2, previously omitted reference numeral 15' marking a wall of the neck portion 15 of the axle housing 12 has been added. No new matter has been added.

Specification has been amended to specify that first and second communication passages 106 and 108, respectively, are formed integrally in a wall 15' of the neck portion 15 of the axle housing 12 so as to pass through the wall 15' thereof. The specification has been further amended to specify that a delivery passage 110 may be formed in the axle housing 12 passing through the wall 15' of the neck portion 15 and a wall 14' of the differential housing portion 14. The specification has been also amended to specify that the directional valve 34, the check valve 38 and the control valve 40 are disposed in the wall 15' the neck portion 15 of the axle housing 12.

Appl. No. 10/765,959  
In re BAXTER  
Reply to Office Action of Apr. 20, 2005

The antecedent basis for the above amendments could be found in Figs. 1 and 2 of the present application. No new matter has been added.

Claims 1-2, 5, 7, 8, 14, 16, 19, 21 and 22 were rejected under 35 U.S.C. 102(b) as being anticipated by Blessing (US 5,024,634).

Regarding claim 1: In order to expedite the prosecution of the present application, claim 1 has been amended to include the limitations of claims 2, 3 and 12. No new matter has been added. Claims 2, 3 and 12 have been canceled. Applicant respectfully submits that the applied document, *i.e.*, the variable lock differential of Blessing, does not meet this standard of anticipation. More specifically, Blessing fails to disclose the hydraulic pump mounted about a pinion shaft of the drive pinion and the hydraulic accumulator mounted to the housing of the torque transmitting apparatus. Accordingly, the rejection of claim 1 under 35 U.S.C. 102(b) as being anticipated by Blessing is improper.

Claims 5, 7, 8, 14, 16, and 19 depend upon claim 1 and further define the present invention over Blessing.

Claims 1-23 were rejected under 35 U.S.C. 102(b) as being anticipated by Porter (US 6,578,654). The applicant respectfully disagrees.

Appl. No. 10/765,959  
In re BAXTER  
Reply to Office Action of Apr. 20, 2005

The Examiner alleges that the coupling shown in Fig. 4 of Porter is a differential.

The term “differential” is well established in the automotive art and is defined by the “Dictionary of Automotive Engineering” (Second Edition 1995 by Don Goodsell, CEng, MIMechE, MSAE, Society of Automotive Engineers, Inc., Warrendale, PA) as “a system of gears capable of dividing the input torque of one shaft between two output shafts where rotation at different speeds is likely to occur, as in cornering.” Contrary to this definition, the element 44 shown in Fig. 4 of Porter is defined as “hydraulic coupling” connecting just two shafts: the input shaft 42 to the pinion shaft 54, and does not include “system of gears”. Moreover, the drive axle assembly 34 of Porter also includes a differential 46 (shown in Fig. 7). Obviously, the hydraulic coupling 44 and the differential 46 of the drive axle assembly 34 could not be both differentials. Furthermore, one of ordinary skill in the art would easily realize that the hydraulic coupling 44 of the drive axle assembly 34 is structurally considerably different than the vehicular differential. Accordingly, the rejection of claims 1-23 under 35 U.S.C. 102(b) as being anticipated by Porter is improper.

Claims 3, 4, 6, 9, 10-13, 15, 17, 18 and 23 were rejected under 35 U.S.C. 103(a) as being unpatentable over Blessing in view of Kennicutt (US 3,724,289). The applicant respectfully disagrees.

As noted above regarding the patentability of claim 1, claim 1 has been amended to include the limitations of claims 2, 3 and 12. No new matter has been added. Claims 2, 3 and 12

Appl. No. 10/765,959  
In re BAXTER  
Reply to Office Action of Apr. 20, 2005

have been canceled.

Regarding claim 1: Blessing fails to disclose the hydraulic pump mounted about a pinion shaft of the drive pinion and the hydraulic accumulator mounted to the housing of the torque transmitting apparatus.

Kennicutt fails to disclose the hydraulic pump mounted about a pinion shaft of the drive pinion. Contrary to the Examiner's allegations, the gear pump 30 of Kennicutt is spaced from the input shaft 32, as clearly shown in Fig. 1, not mounted about the shaft. Moreover, the gear pump 30 of Kennicutt is not mounted about the drive shaft 21 that drives the differential assembly, but adjacent to the separate input shaft 32 specifically arranged to drive the pump 30.

Thus, even if the combination of and modification of Blessing and Kennicutt suggested by the Examiner could be made, the torque transmitting apparatus still would lack the hydraulic pump mounted about the pinion shaft of the drive pinion and the hydraulic accumulator mounted to the housing. Accordingly, the rejection of claim 1 under 35 U.S.C. 103(a) over Blessing and Kennicutt is improper.

Further regarding claim 6: in order to clarify and further define the present invention over the prior art, claim 6 has been amended to recite that the directional valve is disposed in a wall of the housing of the torque transmitting apparatus. The antecedent basis for the amendment could be found in Figs. 1 and 2 and the amended paragraph beginning at page 9, line 6, of the present specification. No new matter has been added.

Appl. No. 10/765,959  
In re BAXTER  
Reply to Office Action of Apr. 20, 2005

In addition to the arguments regarding the patentability of claim 1, both Blessing and Kennicutt fail to disclose the directional valve disposed in the wall of the housing of the torque transmitting apparatus. Accordingly, the rejection of claim 6 under 35 U.S.C. 103(a) as being unpatentable over Blessing and Kennicutt is improper.

Regarding claim 9: in addition to the arguments regarding the patentability of claim 1, both Blessing and Kennicutt fail to disclose a fluid reservoir disposed in the housing for storing a supply of the hydraulic fluid. Claim 9 has been amended to depend upon claim 1, rather than the canceled claim 2. No new matter has been added.

Regarding claim 15: in order to clarify and further define the present invention over the prior art, claim 15 has been amended to recite that the control valve is disposed in a wall of the housing of the torque transmitting apparatus. The antecedent basis for the amendment could be found in Figs. 1 and 2 and the amended paragraph beginning at page 9, line 6, of the present specification. No new matter has been added.

In addition to the arguments regarding the patentability of claim 1, both Blessing and Kennicutt fail to disclose the control valve disposed in the wall of the housing of the torque transmitting apparatus. Accordingly, the rejection of claim 15 under 35 U.S.C. 103(a) as being unpatentable over Blessing and Kennicutt is improper.

Appl. No. 10/765,959  
In re BAXTER  
Reply to Office Action of Apr. 20, 2005

Regarding claim 17: in order to clarify and further define the present invention over the prior art, claim 17 has been amended to recite that the first communication passage was integrally formed in the wall of the housing of the torque transmitting apparatus so as to pass through the wall 15' thereof. The antecedent basis for the amendment could be found in Figs. 1 and 2 and the amended paragraph beginning at page 9, line 6, of the present specification. No new matter has been added.

In addition to the arguments regarding the patentability of claim 1, both Blessing and Kennicutt fail to disclose the first communication passage fluidly connecting the directional valve with the accumulator and integrally formed in the wall of the housing of the torque transmitting apparatus . Accordingly, the rejection of claim 17 under 35 U.S.C. 103(a) as being unpatentable over Blessing and Kennicutt is improper.

Regarding claim 18: in order to clarify and further define the present invention over the prior art, claim 18 has been amended to recite that the second communication passage was integrally formed in the wall of the housing of the torque transmitting apparatus so as to pass through the wall 15' thereof. The antecedent basis for the amendment could be found in Figs. 1 and 2 and the amended paragraph beginning at page 9, line 6, of the present specification. No new matter has been added.

In addition to the arguments regarding the patentability of claim 1, both Blessing and Kennicutt fail to disclose the second communication passage fluidly connecting the accumulator

Appl. No. 10/765,959  
In re BAXTER  
Reply to Office Action of Apr. 20, 2005

to the control valve and integrally formed in the wall of the housing of the torque transmitting apparatus. Accordingly, the rejection of claim 18 under 35 U.S.C. 103(a) as being unpatentable over Blessing and Kennicutt is improper.

Regarding claim 23: in order to expedite the prosecution of the present application, claim 23 has been amended to further define the present invention over the prior art. The antecedent basis for the amendment could be found in Figs. 1 and 2, page 10, lines 16-17 and the amended paragraph beginning at page 9, line 6, of the present specification. No new matter has been added.

Both Blessing and Kennicutt fail to disclose the gerotor pump mounted about a pinion shaft of the drive pinion, the hydraulic accumulator mounted to the housing of the torque transmitting apparatus, a directional valve disposed in a wall of the housing, a solenoid-operated control valve disposed in the wall of the housing, first and second communication passages integrally formed in the wall of the housing, and an electronic control module actuating said control valve in response to an activation of an anti-lock braking system of a vehicle. Moreover, the cited prior art lacks any suggestion or motivation to support the resultant modification, suggested by the Examiner.

Accordingly, the rejection of claim 23 under 35 U.S.C. 103(a) as being unpatentable over Blessing and Kennicutt is improper.

Appl. No. 10/765,959  
In re BAXTER  
Reply to Office Action of Apr. 20, 2005

Claim 14 has been amended to depend upon claim 1, rather than the canceled claim 2. No new matter has been added.

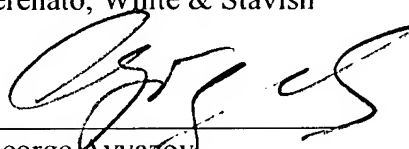
Claims 19 and 20 have been amended to further clarify the present invention. The antecedent basis for the amendment could be found in the paragraph beginning at page 9, line 16, of the present specification. No new matter has been added.

Claims 21 and 22 have been canceled.

It is respectfully submitted that claims 1-23 define the invention over the prior art of record and are in condition for allowance, and notice to that effect is earnestly solicited. Should the Examiner believe further discussion regarding the above claim language would expedite prosecution they are invited to contact the undersigned at the number listed below.

Respectfully submitted:  
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Appl. No. 10/765,959  
In re BAXTER  
Reply to Office Action of Apr. 20, 2005

**Amendments to the Drawings:**

The attached sheets of drawings include changes to Figs. 1-3. These sheets, which include Figs. 1-3, replace the original sheets including Figs. 1-3. In Fig. 1, previously omitted reference numerals 14' and 15' marking a wall of the differential housing portion 14 and a wall of the neck portion 15 of the axle housing 12, respectively, have been added. In Fig. 2, previously omitted reference numeral 15' marking a wall of the neck portion 15 of the axle housing 12 has been added. The replacement sheets of drawings including Figs. 1-3 are of a formal nature. No new matter has been added.

Attachment: Three Replacement Sheets.